

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

July 13, 2005

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. Training/Seminar: Overview of Geosynthetics and their Application *(John Odermatt)*
Since 1993, the Federal regulations have required “composite liner systems” at municipal solid waste (MSW) landfills. These composite liner systems commonly contain geosynthetic components. On Jun 28, 2005, the State Water Board sponsored a technical training seminar presented by Dr. Robert Koerner of the Geosynthetics Institute (GSI). The GSI maintains information on their web site at: <http://www.geosynthetic-institute.org/>. The seminar was designed to better acquaint the participants with the development and application of geosynthetics in hydraulic engineering and environmental applications. The forum also provided the participants with a unique opportunity to discuss various technical concerns and share their experiences with applications of geosynthetics in environmental applications. The seminar was held at the offices of the Santa Ana Regional Water Board (Region 8) and was well attended by Regional Board staff (including Mr. John Odermatt from Region 9), State Water Board staff, California Integrated Waste Management Board staff, and various Local Enforcement Agencies (LEAs) in southern California.

2. Beach Water Quality Microbiology Workshop *(Jeremy Haas)*
On July 6, 2005 Jeremy Haas attended a Beach Water Quality Microbiology Workshop at the Orange County Sanitation District. The workshop was hosted by the County of Orange and was designed to provide information regarding how current beach water quality microbiology studies in the region could affect public health management. Speakers discussed environmental microbiology studies in Mission Bay, Huntington Beach, and San Juan Creek as well as research regarding the use of alternative rapid indicators and the limits of direct virus testing. Attendees included public health officials, stormwater program managers, and interested public citizens.

Current beach recreational use water quality objectives rely on indicator fecal bacteria to represent a risk to public health from pathogenic organisms. Results from fecal bacteria testing, however, are not available until the following day, by which time the threat may have passed. In addition, the risk implied from measurements of indicator bacteria from nonpoint sources may not be consistent with the risk from point sources. Direct measurement of pathogens, however, is even more difficult and expensive. Researchers are investigating methods for more rapid indicator testing and better identification of the fecal bacteria sources and the risks posed by the various sources. Other research is focusing on the fate and transport of indicator bacteria within the environment.

The information from the workshop can be used by municipalities and the Regional Board to develop and evaluate implementation plans for the pending Bacteria-Impaired Waters TMDL Project I for Beaches and Creeks in the San Diego Region.

3. Total Maximum Daily Load 2005 Conference (*Michael McCann*)

From June 27-29 Michael McCann attended the Water Environment Federation's 2005 Conference on TMDLs in Philadelphia. The technical sessions for the nearly three hundred attendees provided a wealth of information on TMDL development and implementation. Three other regional boards had representatives at the conference. Non-point source TMDLs and their implementation was a major focus of the conference. Many TMDLs nation-wide are addressing non-point source impairments for nutrients, bacteria, pesticides, sediment, and heavy metals, and many of the implementation plans are difficult and long term with high degrees of uncertainty associated with them. Many of the sessions provided new technical approaches for assessing sources of pollution and effective best management practices.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. Sanitary Sewer Overflows (SSO) (*Charles Cheng, Bryan Ott, Victor Vasquez*) (*Attachment B-1*)

From June 1 to June 30, 2005, there were 13 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 8 of these spills reached surface waters or storm drains, one of which resulted in closure of recreational waters. Of the total number of overflows from public systems, two were 1,000 gallons or more. The combined total volume of reported sewage spilled from all publicly owned collection systems for the month of June 2005 was 64,641 gallons.

There were also 4 sewage overflows from private property reported in June 2005. Two reached surface waters or storm drains, both resulting in closure of recreational waters. Of the total number of overflows from private property, none were 1,000 gallons or more.

The total rainfall amount for June 2005 recorded at San Diego Lindbergh Field was 0.02 inches. For comparison, in May 2005, a total of 0.12 inches of rainfall was recorded, and 9 public SSOs were reported. Also for comparison, in June 2004, no amount of rainfall was recorded at San Diego's Lindbergh Field and 22 public SSOs were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through June 30, 2005, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2001-2002.

It should be noted that the data for spill volume per volume conveyed (GAL/MG) could be easily misinterpreted. For a sewer agency that has a small system size but experienced a spill of a few hundred gallons or more, the value may show high. Also, for a sewer agency that has a large system size, a high volume spill event may not result in a high value for this statistic. Hence, these numbers by themselves are not sufficiently

representative of the measures being taken by a sewer agency to prevent SSOs, nor can the numbers be compared directly between agencies. The data does represent a different way to review and analyze SSO volume data as it relates to system size.

Additional information about the Regional Board's SSO regulatory program is available at the Regional Board's website at <http://www.waterboards.ca.gov/sandiego/programs/sso.html>.

No Notices of Violation for SSOs were issued during the month of June 2005.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in June 2005

(Stacey Baczkowski) (Attachment B-2)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a Section 404 permit from the Army Corps of Engineers, for filling or armoring of creeks and streams. See attached table (B-2).

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

3. Grants Update *(Dave Gibson) (Attachment B-3)*

Status of Proposition 13 and 319(h) Grant Program Projects

The Regional Board and the State Water Resources Control Board (SWRCB) are continuing to work with several Proposition 13 grantees who are now in breach of contract or whose projects are considerably behind schedule. The Regional Board will work with these grantees in an attempt to return them to schedule, but it may be necessary to recommend termination of the contracts if the grantee fails to make satisfactory progress on the project. Negotiation of the final grant agreement for the County of San Diego's Rainbow Creek Nutrient TMDL Implementation project is temporarily on hold pending approval by the State Board of proposed modifications to the project.

Department of Finance (DOF) has completed an audit of the Lakeside Conservancy grants from SWRCB and Department of Water Resources (DWR). In addition, DOF will also conduct an audit on the Southwest Wetlands Interpretive Association grant in the Tijuana Estuary beginning July 18, 2005. These audits are part of an ongoing DOF evaluation of grant-funded projects throughout the state.

A special DOF audit, however, has been requested by SWRCB for the City of San Diego Planning Department Los Penasquitos Watershed Management Plan project. The last 5 invoices for approximately 90% of the grant funds were not approved by the Regional Board because of numerous errors, lack of supporting documentation for the charges, and accounting irregularities. The SWRCB concurred with and supported the actions of the

Regional Board after a thorough review of the record, additional submittals from the City of San Diego, and the Regional Board actions regarding this contract. The funds for this grant have been disencumbered and any future payments to the City for this project will be based on the findings of the audit. This audit is scheduled for February 2006.

Proposition 50 Integrated Regional Water Management (IRWM) Grant Program

The SWRCB and DWR received 54 proposals for IRWM Planning grants. Reviewers for these proposals included representatives from the State and Regional Water Boards, DWR, State Coastal Conservancy, Department of Fish and Game, and California Coastal Commission. Technical reviews were completed and submitted to the lead reviewer by June 24, 2005 and Consensus reviews among the reviewers for each proposal are due by July 11, 2005. The Selection Panel will complete the review process and submit a preliminary funding recommendation to the SWRCB and DWR by August 24, 2005. The application due date for Step 1 Implementation grants is July 14, 2005.

The draft Proposal Solicitation Package (PSP) for Step 2 Implementation grants was released for public comment in mid-June 2005 (Attachment B3a). The draft Step 2 PSP contains the detailed scoring criteria and procedures for submitting Step 2 applications for grant funding. Submittal of a Step 2 proposal will be by invitation only following the technical reviews of the Step 1 Implementation Grant proposals. Workshops on the draft PSP will be held in Sacramento and Los Angeles:

Sacramento

July 28, 2005 - 1:30 p.m.
Cal/EPA Building
1001 I Street, 2nd Floor, Coastal
Hearing Room
Sacramento, CA 95814

Los Angeles

August 4, 2005 - 10:00 a.m.
Los Angeles Regional Water Quality
Control Board
320 W. 4th St., Suite 200
Los Angeles, CA 90013

The July 28th public meeting will be a web broadcast, and can be accessed at <http://www.calepa.ca.gov/broadcast>. During the broadcast listeners may e-mail comments or questions to: dfa_grants.ca.gov. It is not necessary to register to attend these meetings.

Consolidated Proposition 40 and Proposition 50 Grants Program

The Consolidated Grants Program will make approximately \$142 million dollars available for projects starting in late 2006. The SWRCB initiated the Consolidated Proposition 40 and Proposition 50 Grants Program with a focus meeting in Sacramento on May 13, 2005 for developing the guidelines for the program. The anticipated grant process flow chart is attached (Attachment B-3b). The draft Guidelines for the program should be available for public review and comment in July 2005. Most of the grant funds must be encumbered by December 2006 and the projects must be completed by the grantees no later than September 2008. The Proposition 40 and Proposition 50 programs that will be included in this Consolidated Grants Program include:

- Coastal Non-Point Source Pollution Control Program (\$33.1 Million);

- Non-Point Source Pollution Control Program (\$19 Million);
- 319(h) Program (\$4.5 Million);
- Agricultural Water Quality Grant Program (\$14 Million).
- Integrated Watershed Management Program (\$47.5 Million);
- Urban Storm Water Program (\$14.25 Million);
- CALFED Watershed Program (\$6 Million); and
- CALFED Drinking Water Program (\$3.4 Million).

Grant awards are expected to range from \$250,000 to \$5,000,000. This will be the last significant grant program from the Proposition 40 and 50 bond act funds.

Implementation of regional and state priorities will be emphasized in the Consolidated Grants. Each Regional Board will identify 25 watershed specific and 5 region wide priorities for funding under the Consolidated Grants program. Each Regional Board will submit it's "25-5 priorities" to the State Board by July 18, 2005. The identified regional priorities (up to 30 per region, as outlined above) will be stated in the Guidelines. The identified regional priorities will be considered equal and will not be ranked. Each concept proposal will be evaluated based on its ability to address the identified regional priorities, with other criteria (e.g., applicant's track record, probability of success, incorporation of appropriate partners, technical expertise, etc.) also considered. All applicants who submit concept proposals that address an identified regional priority and meet the other criteria outlined in the Guidelines will be invited to submit full proposals. By focusing concept proposals on regional priorities, full proposals will be aimed at high priority water quality needs. The review of full proposals will focus on other criteria such as technical merit, probability of success, load reduction, etc., as identified in the Guidelines.

Three stakeholder workshops to answer questions and to solicit input will be held as follows:

Oakland	Sacramento	Riverside
July 22, 2005	July 28, 2005	July 29, 2005
1:00 PM – 4:00 PM	9:00 AM – 12:00 PM	1:00 PM – 4:00 PM
Elihu Harris Building	Cal/EPA Building	California Tower Building
Room 11, 2 nd Floor	Coastal Hearing Rm, 2 nd Fl.	Highgrove Room (Suite 200)
1515 Clay Street, Ste 1400	1001 I Street	3737 Main Street
Oakland, CA 94612	Sacramento, CA 95814	Riverside, CA 92501

The workshops will focus on discussing and explaining the 2005-06 Consolidated Grants Program and soliciting comments on grant process elements. The July 28th public meeting will be web broadcast, and can be accessed at <http://www.calepa.ca.gov/broadcast>. During the broadcast listeners may e-mail comments or questions to: dfa_grants.ca.gov.

4. San Diego Municipal Storm Water Permit – Watershed Efforts (Phil Hammer)

The Regional Board recently reviewed the Copermittees' Watershed Urban Runoff Management Program (WURMP) Annual Reports. The WURMPs are programs the Copermittees are required to implement under the San Diego Municipal Storm Water Permit (Permit) in order to identify and address high priority water quality problems within each major watershed of San Diego County. The Copermittees annually submit a WURMP Annual Report for each watershed, which describes the efforts the Copermittees have recently implemented to address each watershed's primary water quality concerns.

Based on the Regional Board's review of the WURMP Annual Reports, the Regional Board found the 21 Copermittees to be in violation of the Permit for failure to adequately implement effective watershed activities which eliminate pollutant sources and reduce pollutant loadings causing high priority water quality problems in each watershed. As a result of this finding, Notices of Violation were issued to each of the Copermittees. Prior to the issuance of the Notices of Violation, the Regional Board urged in writing and in meetings with each Copermittee the need to improve WURMP implementation. Unfortunately, the recently submitted WURMP Annual Reports, in spite of notification by the Regional Board, failed to exhibit needed improvements.

The Regional Board will continue to closely monitor the Copermittee's progress in improving the implementation of the WURMPs. In addition, when the Permit is re-issued in 2006, it is anticipated that the WURMP requirements will be expanded to better ensure effective WURMP implementation by the Copermittees.

5. Proposed Gregory Canyon Landfill (*Carol Tamaki and John Odermatt*)

The Regional Board has a website that includes an electronic copy of the Joint Technical Document (JTD) and updated news regarding the status of the proposed landfill:

http://www.waterboards.ca.gov/sandiego/programs/units/ldu/Canyon%20Project/gregory_canyon_landfill.html

As of July 1, 2005, the electronic mailing list includes 56 individuals and/or organizations for the proposed Gregory Canyon Landfill project. The Regional Board web site now includes an electronic mailing list for proposed Gregory Canyon project at the following URL:

http://www.waterboards.ca.gov/lyrisforms/reg9_subscribe.html

On July 7, 2005, the Regional Board staff plans to meet with representatives from the Pala Band of Mission Indians to discuss their comments and concerns regarding the proposed Gregory Canyon Landfill project. On May 19, 2005, the Regional Board convened a public workshop on the proposed Gregory Canyon Landfill project. Over 150 members of the public attended the workshop. The Pala Band of Mission Indians occupies a Federal reservation that is located adjacent to the proposed landfill site. The Pala Band of Mission Indians currently utilize local water resources and continue to have concerns regarding disposition of cultural resources located in proximity to Gregory

Canyon. The staff will continue to update the Regional Board in future Executive Officer Reports.

6. Local Oversight Program (LOP) Outreach: Electronic Reporting and Public Participation Requirements (*Jody Ebsen and John Odermatt*)

The three LOP agencies located in the San Diego Region (Counties of San Diego, Orange and Riverside) provide regulatory oversight for approximately 1,384 (86%) of the leaking underground storage tank (LUST) sites in our region. The Regional Board staff has identified the need for compliance with the latest electronic reporting requirements as an important component in evaluating leaking underground storage tank (LUST) and LOP cases for no further action.

On May 25, 2005 the Regional Board issued Order No. R9-2005-0157 to the LOP agencies in San Diego, Orange and Riverside Counties. The Order specifically addresses three primary compliance issues for closure of LOP cases:

- Compliance with the minimum electronic reporting requirements must be met prior to the LOP agencies submitting their LOP Case Closure Summary for review by the Regional Board.
- Identify the minimum information that must be provided to the Regional Board to assess compliance with public participation requirements under the applicable State statutes and regulations; and,
- Identify the minimum information that must be provided for the Regional Board, as a complete paper copy and electronically reported in the Getotracker database, to consider "risk-based" closures proposed for LOP cases.

In addition to compliance with electronic reporting requirements, the Order provides a framework on the minimum information that should be provided for the Regional Board to evaluate sites for no further action (case closure). The issuance of Order R9-2005-0157 is the first phase of an outreach program intended to increase general awareness and gain increased compliance with electronic reporting requirements.

Dischargers/Responsible Parties for LUST cases are required to report a specified set of minimum electronic information (per [section 3893, Title 23, CCR](#)) into the State Water Board's Geotracker database. A complete copy of Order No. R9-2005-0157 may be obtained from the Regional Board's web site:

<http://www.waterboards.ca.gov/sandiego/programs/units/tsmc/tsmc.html>

On June 30, 2005, the Regional Board staff met with the State Water Board UST staff, and representatives from the LOP agencies in San Diego County and Orange County to discuss Order R9-2005-157. The Regional Board staff plans to schedule a similar meeting with the Riverside County LOP in the future.

7. Underground Storage Tank Program: Electronic Reporting and Public Participation Requirements (*Kelly Dorsey and John Odermatt*)

On June 10, 2005, the Regional Board Executive Officer issued Order R9-2005-0178, under authority of Water Code section 13267, requiring Dischargers/Responsible Parties at Regional Board lead LUST cases to continue providing the Regional Board with complete paper copies of technical submittals in addition to complying with State's electronic reporting requirements. Order R9-2005-0178 was sent to Dischargers responsible for cleanup and abatement of pollution in the City of Temecula where the Rancho California Water District relies upon groundwater for public water supplies.

During July 2005, the Regional Board staff plans to issue a similar Order to the remaining Dischargers responsible for cleanup and abatement of pollution from Regional Board lead LUST sites located in San Diego County.

8. Offsite Disposal of Soil Wastes from the Downtown Marina District (*Sue Pease and John Odermatt*)

The Regional Board staff met with representatives from Centre City Development Corporation (CCDC) on July 6, 2005 to discuss outstanding issues with disposal of soil from 105/145 Market Street to 5662 Otay Valley Road. The soil wastes contained detectable concentrations of petroleum hydrocarbon constituents impacted from unauthorized releases of petroleum constituents from leaking underground storage tanks (USTs), including waste oil tanks. The soil wastes originated from excavation of a city block in downtown San Diego that was part of a cleanup of a groundwater petroleum hydrocarbon plume known as the "Blob". The meeting focused on CCDC providing background total lead levels in soil for the Otay Valley Road site to demonstrate that the soil disposed there does not provide a risk to human health and the environment or to the beneficial uses of the groundwater and surface water. It is necessary to compare background soil total lead values to the total lead values of the soil that originated from the leaking UST site to fulfill the requirements to be eligible for a waiver of Waste Discharge Requirement under the Regional Board Waiver Policy (Item 16 in Resolution R9-2003-060). The staff will continue to update the Regional Board in future Executive Officer Reports.

9. Technical Advisory Committee: Mission Bay Landfill (*Brian McDaniel and John Odermatt*)

On July 1, 2005, the Regional Board staff attended a meeting of the Mission Bay Landfill Technical Advisory Committee (TAC). The purpose of the meeting was to review and discuss the results of the site investigation and input parameters for the human health risk assessment (HHRA) that will be part of the final technical report completed by SCS Engineers on behalf of the City of San Diego. Dr. Paul Damian (SCS Engineers) provided an overview of the data used in the HHRA, chemicals of potential concern, risk assessment conceptual model and the preliminary results from the risk assessment. The risk assessment was designed to include exposure scenarios for construction workers (cancer and non-cancer risks), adult recreational user, child recreational user, swimmer, and transient (calculated cancer risks and non-cancer risks for each scenario). The preliminary evaluation indicates the most sensitive exposure pathways are from oral ingestion and dermal exposure routes. Preliminary calculations indicate elevated cancer risk scores (greater than 1×10^{-6} cancer risk) from the exposure scenarios, presumed exposure to arsenic, in order of decreasing calculated cancer risk for: the child

recreational user, commercial worker, adult recreational user, same risk for construction worker and swimmer, and transient. Preliminary calculations indicate elevated non-cancer risk scores (hazard index greater than 1) from the exposure (presumed exposure to mercury) scenarios for the construction worker. The Regional Board staff anticipates that the final technical report from SCS Engineers will be submitted to the TAC members in mid-August 2005. Then next regular meeting of the Mission Bay Landfill TAC is likely to be scheduled in September 2005.

10. Pending Rescission of CAO 95-09 and Tank Case Closure (*Jody Ebsen and John Odermatt*)

The Regional Board staff has initiated public participation processes associated with the pending closure of a leaking underground storage tank case located at the U.S. Marine Corps (USMC) Base at Camp Pendleton in San Diego County. The Regional Board issued Cleanup and Abatement Order No. 95-09 (and addenda thereto) to the USMC for cleanup and abatement of pollution from past discharges of petroleum wastes into soil and groundwater at the Marine Corps Air Station Fuel Farm. Camp Pendleton is a groundwater dependent community and CAO 95-09 was issued to ensure protection of nearby base water supply wells. Completion of corrective actions and verification monitoring indicate that the USMC has obtained satisfactory compliance with Order 95-09 (and addenda thereto). The pending closure will be publicly noticed in the agenda for the August 2005 Regional Board meeting. This action will fulfill the Regional Board's obligation to provide public participation as required by section 2728, Chapter 16, California Code of Regulations.

11. Pending Rescission of CAO 89-51 and Tank Case Closure (*Sue Pease and John Odermatt*)

The Regional Board staff has initiated public participation processes associated with the pending closure of a leaking underground storage tank case located at 235 Market Street, San Diego. The Regional Board staff is preparing to issue a closure summary, a staff report, a no further action letter, and an order (Order No. R9-2005-0131) rescinding Cleanup and Abatement Order (CAO) 89-51. The Dischargers (Golden West Hotel and Unocal Corporation) have completed corrective action to remove free phase petroleum from the groundwater and remove soil wastes containing fuel constituents. The corrective actions satisfy the directives of CAO 89-51. The pending closure will be publicly noticed in the agenda for the August 2005 Regional Board meeting. The inclusion of this public notice as part of the Regional Board agenda fulfills the agency's obligation for public participation under section 2728, Chapter 16, California Code of Regulations.

12. Pending Rescission of CAO 91-45 for the Downtown "Blob" (*Sue Pease and John Odermatt*)

The Regional Board staff will initiate public participation process associated with the issuance of Order No. R9-2005-0135, rescinding Cleanup and Abatement Order (CAO) 91-45. CAO 91-45 was issued to the Redevelopment Agency of San Diego, G.T.F. Properties and Shell Oil Company, Golden West Hotel and Unocal Corporation, and

Greyhound Lines Incorporated and Transportation Leasing Company (the Dischargers) for cleanup and abatement of past discharges of petroleum wastes into the soil and groundwater creating a commingled plume of light nonaqueous phase liquid (LNAPL) beneath the Marina District located within the City of San Diego. The Dischargers have complied with the directives in CAO 91-45 including implementation of remedial action plans, site specific corrective action plans, removal of free phase petroleum product from the groundwater, monitoring of the dissolved phase pollution in the groundwater, and verification sampling and monitoring. The pending rescission will be publicly noticed in the agenda for the August 2005 Regional Board meeting. The inclusion of this public notice as part of the Regional Board agenda fulfills the agency's obligation for public participation under section 2728, Chapter 16, California Code of Regulations.

13. San Diego County 4th annual Clean Water Summit (*John Robertus*) (*Attachment B-13*)

The County of San Diego held its 4th Clean Water Summit on Thursday, July 7 at the University of San Diego Campus. Chairman John Minan, Board Member Eric Anderson and John Robertus participated as panel members during the one-day event. The focus of the Summit was to look to the future to examine ways to preserve and restore clean water in the region. The morning session covered topics related to regional watersheds and the afternoon session consisted of three breakout groups to further examine watershed education, agriculture water quality issues and the industrial stormwater program. During lunch five awards were presented to regional "Watershed Champions". There were over 200 attendees that provided an excellent forum for the public to interact with the local and state regulatory officials. There were three representatives of the State Water Resources Control Board to provide updated information on their activities on SWRCB general permits and programs. The attendees were particularly interested in the new San Diego County general storm water permit for municipal separate storm sewer systems that will be due for reissuance in February 2006. The schedule of events for the Summit is provided as Attachment B-13.

14. Executive Officer meets with San Diego County Supervisor Dianne Jacobs (*John Robertus*)

John Robertus met with San Diego County Supervisor Dianne Jacob and her staff on Monday, 11 July. The meeting was requested by Supervisor Jacobs to explain the previous actions by the Regional Board concerning the Waste Discharge Requirements Order (WDRO) for the Cuyamaca State Park Agency for disposal of sewage effluent. The WDRO was adopted by the Board on 10 June 2004. Board Member Richard Wright also attended the meeting and explained the use of the Basin Plan water quality standards that the Regional Board employs to make decisions for wastewater disposal to waters of the state. There was no discussion of any future action by the Board. John Robertus will continue to coordinate with State Parks officials to facilitate continued use of off-site state property for effluent disposal until the Cuyamaca waste water can satisfy the WDRO.

15. Pre-fabricated Concrete Spans in the San Diego Region (*Mike Porter*)

During the June 8, 2005 Regional Board meeting regarding the Fashion Valley Road Culverted Crossing item discussion, staff reported that ConSpans have been installed at

several locations in Region 9. ConSpan is the company that pre-fabricates concrete spans. Boardmember Wright expressed interest and requested additional information at a future Regional Board meeting. Staff requested information from BridgeTek (a consulting firm who installs ConSpans) regarding locations. For maps and spreadsheets describing the different applications and locations of ConSpan products in California, contact Regional Board staff, Mike Porter, at mporter@waterboards.ca.gov or BridgeTek's regional manager, Gina Schroer, at gschroer@BRIDGETEK.cc

16. City of San Diego Fashion Valley Road Culverted Crossing Replacement
Clean Water Act Section 401 Water Quality Certification *(Mike Porter)*

On June 17, 2005, in follow-up to the discussion of the crossing replacement project at the June 8 Regional Board meeting, the Regional Board issued Clean Water Act Section 401 Water Quality Certification to the City of San Diego for the installation of two temporary cofferdams. The cofferdams are needed to facilitate the removal and replacement of the collapsed Fashion Valley Road Culverted Crossing. In addition to standard conditions, the Certification included conditions that require the City of San Diego to perform hydrology and beneficial uses studies.

The hydrology study of the lower San Diego River will be from the downstream terminus of the gorge in Mission Gorge to the tidally influenced estuary. The purpose of this hydrology study is to determine if water quality and beneficial uses are currently impacted, and will be impacted, by discharge(s) caused by future failed road crossings and their associated repair and existing/planned hydromodifications along the river. Hydromodifications are physical modifications to a water body resulting from such features as road crossings, grade control structures, bridges, dams, deepening, narrowing, straightening, filling, culverting, or placing streams or rivers underground. Water quality is adversely affected by hydromodifications because cleansing functions are removed or eliminated such as oxidation, photolysis, pollutant assimilation by plants, and residence time. Ponded and deepened channels also create pollutant sinks. Hydromodifications remove or limit beneficial uses by removing or negatively modifying habitats, affecting groundwater recharge, and reducing recreation opportunities.

The hydrology study will include analysis of: 1) river crossings at risk for failure; 2) river crossings planned for replacement; 3) additional planned river crossings; and 4) existing and planned river grade controls. The City of San Diego is required to submit a work plan of the study by September 1, 2005, interim status reports annually each July, and a final report by July 1, 2008.

The beneficial uses study will analyze if existing and planned hydromodifications have or will continue to impact existing beneficial uses of the San Diego River. The study shall examine the biological, geochemical, and hydrologic functions and values of the river and how they have and will change for each designated beneficial use. The beneficial uses study shall be submitted to the Regional Board by March 1, 2006. A work plan for the beneficial uses study shall be submitted to the Regional Board by August 1, 2005 for review and approval

17. Status of Administrative Civil Liability (ACL) Complaints *(Mark Alpert, Frank Melbourn, Vicente Rodriguez, Rebecca Stewart, Compliance Assurance Unit)*

The following is the status of the outstanding Administrative Civil Liability (ACL) Complaints. Complete details of the ACL Complaints can be found on the Regional Board web site at <http://www.waterboards.ca.gov/sandiego/>

City of Escondido, Hale Avenue Resource Recovery Facility (HARRF)

Violations of Effluent Limitations subject to Mandatory Minimum Penalties

The Regional Board is continuing its review of the City's April 5, 2005 investigative report, in which they assert an illegal connection to the sewer by a golf club manufacturer was the principle cause of the plant upset that resulted in 393 effluent limitation violations between May 3 and August 17, 2004. On July 8th the City and Regional Board met to explore a possible settlement of the potential minimum mandatory penalty of approximately \$1.2 million. The Regional Board is continuing to evaluate the matter and expects to re-issue the ACL in the near future.

City of San Diego, Point Loma Treatment Plant, San Diego

ACL Complaint No. R9-2005-0083 for \$42,000 Mandatory Minimum Penalty

The City of San Diego has elected to waive its right to a public hearing in this matter. The hearing has been rescheduled for September 14, 2005, to provide the City's Metropolitan Wastewater Department additional time to complete its' proposal to fund a Supplemental Environmental Project (SEP) with a portion of the \$42,000 liability. The City proposes to pay \$13,500 to the State Water Resources Control Board and \$28,500 to fund a SEP for monitoring waters, sediments and biota in marine coastal waters, bays, lagoons and estuaries in the San Diego region.

The Regional Board will consider accepting the City of San Diego's waiver at its September 14, 2005 meeting. Written comments regarding the allegations contained in Complaint No. R9-2005-0083, and/or acceptance of the waiver will be accepted through Friday August 31, 2005.

**JRMC Real Estate, Inc., Escondido Research and Technology Center, Escondido.
\$1.26 million ACL Complaint No. R9-2005-0059**

The August 10, 2005 hearing has been postponed at the request of JRMC to provide JRMC and the Regional Board additional opportunity to continue settlement discussions. A Regional Board inspection of the construction site on July 7, 2005 revealed no serious violations. JRMC has begun installing underground irrigation in preparation of landscaping the exterior slopes. Approximately two-thirds of the water piping has been installed on site. Storm water and sewer pipes have been installed along Citiricardo Parkway, the main thoroughfare running North/South through the site. JRMC expects that all sedimentation basins needed, as part of the sediment control measures, will be installed by September 1, 2005 prior to the rainy season. The next site inspection is scheduled on July 21, 2005.

City of Escondido, MS4 Permit

\$129,000 ACL Complaint No. R9-2005-0097

The August 10, 2005 hearing has been postponed at the request of the City of Escondido and JRM Real Estate, Inc. (JRM). JRM has offered to indemnify the City for any liability adopted by the Regional Board against the City.

SeaWorld San Diego Discharge to Mission Bay

ACL Complaint No. R9-2005-0129 for \$6,000 Mandatory Minimum Penalty

On June 6, 2005 SeaWorld elected to waive its' right to a public hearing in this matter and submitted a check for \$6,000 in full payment of the proposed liability.

On May 16, 2005, the Executive Officer issued Complaint No. R9-2005-0129 to SeaWorld San Diego in the amount of six thousand dollars (\$6,000) for violations of two effluent limitations for suspended solid contained in Regional Board *Order No. 2000-0025, NPDES No. CA0107336, Waste Discharge Requirements for SeaWorld San Diego, San Diego County, Discharge to Mission Bay*. The Regional Board will consider acceptance of the waiver at the August 10, 2005 Board meeting.

South Orange County Wastewater Authority (SOCWA)

ACL Complaint No. R9-2005-0124 for \$9,000 Mandatory Minimum Penalty

On June 30, 2005, SOCWA elected to waive its' right to a public hearing in this matter. The Regional Board will consider acceptance of the waiver at the August 10, 2005 Board meeting. SOCWA is proposing to fund a Supplemental Environmental Project (SEP) with a portion of the \$9,000 liability. SOCWA proposes to pay \$4,500 to the State Water Resources Control Board and \$4,500 to the Southern California Coastal Research Program (SCCWRP) to fund a SEP for a Regional Marine Monitoring program for the southern California Bight.

Dakota Ranch Development Co., Dakota Ranch Subdivision, Santee

\$140,500 ACL Complaint No. R9-2005-0176

A public hearing to consider adoption of the ACL is scheduled for the August 10, 2005 Regional Board meeting. As of July 12, Dakota Ranch Development Co., LLC (Dakota Ranch) has not submitted written comments and have until July 27, 2005 to provide written comments in defense of the allegations in the Complaint. The Regional Board recently met with representatives of Dakota Ranch, who informed the Regional Board that efforts were being made to implement the mitigation, though construction had not yet started.

The Executive Officer issued Administrative Civil Liability (ACL) Complaint No. R9-2005-0176 to Dakota Ranch for alleged violation of the Section 401 Water Quality Certification approved January 30, 2003 for the Dakota Ranch Subdivision. The ACL was issued for failure to implement mitigation as required by the Section 401 Water Quality Certification.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Aquatic Pesticide Permit Notification (Peter Michael)

The Division of Water Quality of the State Water Resources Control Board (State Water Board) notified the public and permit holders of a June 1, 2005 workshop and June 16, 2005 hearing to modify the aquatic pesticide order. The notification is not a pressing issue at this time for the San Diego Regional Board. For further information see:

<http://www.swrcb.ca.gov/aquatic/docs/hearingnotice.pdf>

Aquatic pesticide permits issued under the federal Clean Water Act are now required in California and the western states under the jurisdiction of the 9th Circuit Court of Appeals. A description of the program follows:

In May 2004 the State Water Board adopted two aquatic pesticide permits:

- The vector permit, NPDES General Permit Order No. 2004-008-DWQ for direct applications of pesticides and oils to water for control of vectors, such as for abatement of mosquitoes.
- The weed permit, NPDES General Permit Order No. 2004-009-DWQ for direct applications of herbicides to water for control of weeds and algae.

These permits were adopted as a result of a lawsuit filed in 2001 in the 9th Circuit Court in which Headwaters, Inc. prevailed in its contention that applications of toxic chemicals directly to waters of the United States by the Talent Irrigation District were discharges of pollutants to United States waters and subject to the federal Clean Water Act. Such applications would therefore have required the pesticide applicator to have obtained a National Pollutant Discharge Elimination System (NPDES) permit. Previously, pesticides were regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), a law that merely required applicators comply with pesticide label instructions to protect water quality. No site-specific monitoring was required under FIFRA. The California weed permit authorizes the State Water Board to approve categorical exceptions under the California Environmental Quality Act (CEQA) for public agencies meeting the priority pollutant criteria under the state Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California. The aquatic pesticide permit notification was for a June 1, 2005 State Water Board's workshop and hearing on this topic. The State Water Board had previously issued categorical exceptions from complying with the requirements of CEQA for each application of aquatic pesticides.

Several irrigation districts and water districts in California had applied to the State Water Board for exceptions to CEQA and submitted required information demonstrating that the pesticide applications would not degrade the beneficial uses of California waters. Currently, the Metropolitan Water District qualifies for a CEQA exception for copper applications to MWD reservoirs in the San Diego Region. No additional categorical exceptions from CEQA have been requested within this region.

2. *Caulerpa taxifolia* Eradication and Prevention Activities (Lesley Dobalian, Chiara Clemente & Bruce Posthumus)

The first discoveries of infestations of the invasive non-native seaweed *Caulerpa taxifolia* in southern California were made in mid-2000 in Agua Hedionda Lagoon

(AHL) in San Diego County and Huntington Harbour (HH) in Orange County. To date, these are the only two known *Caulerpa taxifolia* infestations in southern California and the United States. Both infestations are believed to have resulted from aquarium releases.

In recognition of the serious consequences of infestations of *Caulerpa* in the Mediterranean Sea, the Southern California *Caulerpa* Action Team (SCCAT) was formed shortly after discovery of the first infestation (in AHL). The SCCAT Steering Committee is responsible for overseeing efforts to eradicate infestations of *Caulerpa* in southern California. The SCCAT Steering Committee is also responsible for providing guidance on related work, including prevention of new infestations. The SCCAT Steering Committee consists of representatives of the United States Department of Agriculture (USDA), National Oceanic and Atmospheric Administration, California Department of Fish and Game (CDFG), Santa Ana Regional Water Quality Control Board, and San Diego Regional Water Quality Control Board (San Diego Water Board). Other SCCAT participants include representatives of Cabrillo Power, the City of Carlsbad, and Agua Hedionda Lagoon Foundation (AHLF). SCCAT meetings were held on January 25, April 6, and June 9, 2005. The San Diego Water Board continues to prepare agendas for, chair, and prepare minutes for SCCAT meetings.

In order to eradicate the AHL and HH infestations, surveys to find *Caulerpa* have been conducted periodically since the infestations were discovered and all *Caulerpa* found has been treated. No *Caulerpa* has been found in AHL since September 2002 or in HH since November 2002. If *Caulerpa* is not found in the summer or fall 2005 surveys, it is likely that SCCAT will recommend to CDFG that the AHL and HH infestations be considered eradicated, based on estimates of survey efficacy and statistically high levels of confidence determined by the number of surveys conducted without finding *Caulerpa*.

The San Diego Water Board currently oversees three State Water Resources Control Board (State Water Board) grants for work on *Caulerpa*. One of these is a \$600,000 Clean Water Act (CWA) §319(h) grant for development of methods for treatment of infestations of *Caulerpa* in high-energy, open coastal environments. (Both known infestations are in enclosed, relatively low energy waters. Treatment methods suitable for use in such areas may not be effective in open coastal waters.) In April 2005, the grantee, USDA, submitted a letter indicating that it would not be able to meet its obligations under the grant and requesting that the grant be transferred to another organization. Efforts to transfer the grant to AHLF are currently underway.

A second CWA §319(h) grant provides \$500,000 for surveillance, treatment, and outreach/education work. AHLF is the grantee. Additional funding for this work is provided by a \$1.3 million grant to AHLF from the Southern California Wetlands Recovery Project through the State Coastal Conservancy.

A Proposition 13 grant to AHLF provides \$2.266 million for resumption of surveillance in "high risk" areas throughout southern California where *Caulerpa* infestations could be present, treatment (if an infestation is found), and outreach/education. CDFG originally

applied for and was awarded this grant. When efforts to finalize a grant agreement between CDFG and the State Water Board were unsuccessful due to issues related to overhead charges, CDFG requested that the grant be transferred to another organization. Efforts to transfer the grant to AHLF were successful. The start date for work under this grant was February 1, 2005; work must be completed by March 2007. The first phase of this surveillance work has begun. Surveillance work has been initiated in San Diego Bay, Mission Bay, Batiquitos Lagoon, Oceanside Harbor, Dana Point Harbor, Anaheim Bay, and Huntington Harbour.

On February 16, 2005, legislation (Assembly Bill 577 [Wolk]) was introduced that would require the Secretary of the Resources Agency and the Secretary of Food and Agriculture to develop a statewide plan for management and control of all invasive species, to be presented to the legislature on or before January 1, 2007.

Additional *Caulerpa* information and links can be found at <http://www.waterboards.ca.gov/sandiego/programs/caulerpa/caulerpa.html>.

3. Workshop on Nutrient Response Targets Conducted by State Water Board (*Sabine Knedlik*)
Pre-defined nutrient limitations may or may not result in eutrophication for a particular waterbody. In recognition of this concern, and the need to develop Total Maximum Daily Loads (TMDLs) for waterbodies impaired by eutrophic conditions, the State Water Board conducted a workshop on developing response targets for nutrient TMDLs on May 18 and 19, 2005. The workshop was attended by representatives from all nine Regional Water Boards and the State Water Board, as well as representatives from the Nevada Department of Environmental Protection, the Hawaii Department of Health, the Arizona Department of Environmental Quality, the U.S. Environmental Protection Agency (USEPA), Tribes within USEPA Region IX, and academic technical advisors.

The goal of the workshop was to identify target values of response endpoints that can be linked to nutrient concentrations in a waterbody. For example, a target maximum density of benthic algal mass in rivers and streams can be used to calculate corresponding nutrient loads or nutrient concentration limits. Other indicators discussed for rivers and streams included macrophyte density, water clarity and turbidity, toxicity of nitrogen species, pH, and dissolved oxygen. For lakes and reservoirs the following indicators were discussed: chlorophyll *a*, cyanobacteria, macrophyte density, transparency, pH, dissolved oxygen, dissolved organic compounds and trihalomethanes.

Response endpoints were discussed for three levels, each level representing a value above which a waterbody has a high, medium, or low potential for impairment. A computer model is being developed to translate the biological endpoints to the nutrient loads or nutrient concentrations a waterbody can assimilate without adverse impacts on the beneficial uses. The model will allow the Regional Water Boards to assess waterbodies on a case-by-case basis. A future workshop is planned to train the Regional Water Board staff on the use of the computer model.

In a related matter, the San Diego Water Board is undertaking a new TMDL project addressing nutrient and eutrophic condition, sedimentation, and indicator bacteria impairments in lagoons from the mouth of the Santa Margarita River south to Famosa Slough. An initial project workshop and CEQA scoping meeting were held on July 6, 2005. The monitoring to be undertaken by the dischargers to assess current conditions in, and develop TMDLs for nutrient and eutrophic condition impairments in the lagoons includes many of the constituents discussed in the workshop. For example, chlorophyll *a*, macrophyte density, dissolved oxygen, nitrogen and phosphorus species, as well as nutrient flux from sediment, biological oxygen demand, and sediment oxygen demand are constituents to be monitored. Collecting these data prior to TMDL development will allow the San Diego Water Board to develop appropriate nutrient TMDLs for the lagoons. A draft Investigation Order (Water Code section 13267) requiring the dischargers to submit Monitoring Program Workplans and Data Reports is being reviewed by the dischargers. The San Diego Water Board intends to issue the Order by the end of July 2005.